

**UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION**

**IN RE: DEPUY ORTHOPAEDICS, INC., PINNACLE  
HIP IMPLANT PRODUCTS LIABILITY LITIGATION**

MDL No. 2244

**TRANSFER ORDER**

**Before the Panel:** Plaintiffs in three District of New Jersey actions listed on the attached Schedule A move under Panel Rule 7.1 to vacate the Panel's order conditionally transferring the actions to MDL No. 2244. Defendants<sup>1</sup> oppose the motions.

After considering the arguments of counsel, we find that these actions involve common questions of fact with the actions previously transferred to MDL No. 2244, and that transfer under 28 U.S.C. § 1407 will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Moreover, transfer is warranted for the reasons set forth in our order directing centralization. In that order, we held that the Northern District of Texas was an appropriate Section 1407 forum for actions sharing factual questions arising from alleged injuries from DePuy's Pinnacle Acetabular Cup System hip implants. *See In re: DePuy Orthopaedics, Inc., Pinnacle Hip Implant Prods. Liab. Litig.*, 787 F. Supp. 2d 1358 (J.P.M.L. 2011). These three actions involve injuries related to DePuy Pinnacle Acetabular Cup System hip implants and fall within the MDL's ambit.

Plaintiffs move to vacate the conditional transfer orders by arguing principally that federal jurisdiction is lacking over their cases. We are not persuaded by this argument. We consistently have held that such jurisdictional objections generally do not present an impediment to transfer.<sup>2</sup> *See, e.g., In re Prudential Ins. Co. of Am. Sales Practices Litig.*, 170 F. Supp. 2d 1346, 1347 (J.P.M.L. 2001) (“[R]emand motions can be presented to and decided by the transferee judge.”).

Plaintiffs argue at length that their motions to remand their actions to state court are likely to be granted. They also contend that transfer will not enhance the convenience of the parties and witnesses or the efficient conduct of the litigation. Their arguments assume that removal of the

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<sup>1</sup> Medical Device Business Services, Inc. (f/k/a DePuy Orthopaedics, Inc.); and DePuy Synthes Sales, Inc.

<sup>2</sup> Moreover, under Panel Rule 2.1(d), the pendency of a conditional transfer order does not limit the pretrial jurisdiction of the court in which the subject action is pending. Between the date a remand motion is filed and the date that transfer of the action to the MDL is finalized, a court generally has adequate time to rule on a remand motion if it chooses to do so.

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actions was not warranted and that the only action the transferee court may take is to remand their actions to state court. But “Section 1407 does not empower the MDL Panel to decide questions going to the jurisdiction or the merits of a case, including issues relating to a motion to remand.” *In re Ivy*, 901 F.2d 7, 9 (2d Cir. 1990).

IT IS THEREFORE ORDERED that these actions are transferred to the Northern District of Texas and, with the consent of that court, assigned to the Honorable James E. Kinkeade for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in cursive script, reading "Karen K. Caldwell", is positioned above a horizontal line.

Karen K. Caldwell  
Chair

Nathaniel M. Gorton  
David C. Norton  
Dale A. Kimball

Matthew F. Kennelly  
Roger T. Benitez  
Madeline Cox Arleo

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**SCHEDULE A**

District of New Jersey

MONICAL v. JOHNSON & JOHNSON, ET AL., C.A. No. 3:21-20202

ALTHOLZ v. JOHNSON & JOHNSON, ET AL., C.A. No. 3:21-20768

SHELNUTT v. JOHNSON & JOHNSON, ET AL., C.A. No. 3:21-20777